

## REMARKS

The Office Action dated March 1, 2006 has been carefully reviewed. Applicants request reconsideration of this application in light of the remarks presented herein.

### INFORMATION DISCLOSURE STATEMENT

In the 3/1/06 Office Action, the Examiner stated that certain foreign documents cited in the Information Disclosure Statement mailed by the Applicants on January 28, 2004 are not currently in the file and have not been considered by the Examiner as indicated on form PTO-1449. As such, Applicants are submitting a Supplemental Information Disclosure Statement herewith to resubmit those references which were not considered by the Examiner.

### SPECIFICATION

As requested by the Examiner, the first paragraph of the present application has been amended to update the status of the now issued patent to which the present application claims priority.

### §102 REJECTIONS

A. Reconsideration of the rejection of claims 32, 36, and 37 under 35 U.S.C. §102 (b) as being anticipated by U.S. Patent No. 5,549,584 to Gross (hereinafter "Gross") is respectfully requested.

Applicants have amended independent claim 32 to include the limitations of dependent claims 36 and 37 therein. Accordingly, dependent claims 36 and 37 have been canceled. As such, independent claim 32 now includes the steps of "providing . . . spacers coupled to the wound contacting surface" and "placing the spacers against the surface of the wound to space the wound contacting surface apart from the wound surface of the wound."

Anticipation exists only if all the elements of the claimed invention are present in a product or process disclosed, expressly or inherently, in a single prior art reference.

*Hazeltine Corp. v. RCA Corp.*, 468 U.S. 1228 (1984). Applicants assert that Gross does not teach or suggest the steps of “providing a relatively thin and flexible member having a wound contacting surface with holes in the surface . . . passageways connecting the holes to the port, and spacers coupled to the wound contacting surface” as well as “placing the spacers against the surface of the wound to space the wound contacting surface apart from the wound surface of the wound.”

For example, Gross discloses a wound dressing 40 including a thin conformable sheet material 42 and repeating spaced, non-adhesive areas 46 and slits 48 “within each of the spaces defined by the non-adhesive areas,” as shown in FIG. 1 and discussed at col. 5, lines 6-35 of the specification of Gross. The Examiner asserted on page 3 of the 3/1/06 Office Action that “[r]egarding claims 36 and 37, Gross teaches the step of spacing member (42) from a wound surface using spacers (46)” and further stated that Gross provided “a relatively thin and flexible member (40) having a wound contacting surface with holes (46) . . . and passageways (48) connecting the holes to the port.”

Applicants respectfully disagree with this reading of Gross. Applicants assert that the wound dressing 40 of Gross does not include “holes in the [wound contacting] surface” *and* “passageways connecting the holes to the port” *as well as* “spacers coupled to the wound contacting surface” in order to “space the wound contacting surface apart from the wound surface of the wound,” as is now recited in newly amended independent claim 1. For example, if the bottom surface of the thin sheet material 42 of Gross is considered to be the claimed wound contacting surface, which is spaced-apart from the wound, then the slits 48 of Gross cannot then be *both* the claimed “holes in the [wound contacting] surface” *and* the “passageways connecting the holes to the port.” Further, as shown in FIG. 1, the spaced-areas 46 of Gross do not provide “holes in the [wound contacting] surface.” Accordingly, newly amended independent claim 32 is not anticipated by Gross because Gross fails to disclose these required elements of newly amended claim 32. As such, reconsideration of this rejection as it pertains to claim 32 is respectfully requested.

B. Reconsideration of the rejection of claims 32-34 under 35 U.S.C. §102 (a) and (e) as being anticipated by U.S. Patent No. 6,071,267 to Zamierowski (hereinafter “Zamierowski”) is respectfully requested.

As mentioned above, independent claim 32 has been amended to recite the steps of “providing . . . spacers coupled to the wound contacting surface” and “placing the spacers against the surface of the wound to space the wound contacting surface apart from the wound surface of the wound.” Zamierowski does not disclose nor suggest such steps. Therefore, in view of the amendment made to claim 32 reconsideration of this rejection as it pertains to claim 32, as well as claims 33 and 34, depending either directly or indirectly from claim 32, is respectfully requested.

#### §103 REJECTIONS

A. Reconsideration of the rejection of claim 35 under 35 U.S.C. §103(a) as being unpatentable over Zamierowski is respectfully requested.

As mentioned above, independent claim 32 has been amended to recite the step of “providing . . . spacers coupled to the wound contacting surface” and “placing the spacers against the surface of the wound to space the wound contacting surface apart from the wound surface of the wound.” Zamierowski does not disclose nor suggest such steps. Claim 35 depends from claim 32 and includes each of the limitations set forth therein. Therefore, in view of the amendment made to claim 32 the present rejection of claim 35 is considered moot. Reconsideration of this rejection is respectfully requested.

B. Reconsideration of the rejection of claims 38 and 39 under 35 U.S.C. §103(a) as being unpatentable over Gross as applied to claims 32, 36 and 37 above, and further in view of U.S. Patent No. 2,195,771 to Estler (hereinafter “Estler”) is respectfully requested.

Independent claim 38 recites the steps of “placing a relatively thin and flexible member adjacent the wound surface, the member having a surface adapted to face the wound with holes in the surface, a port, and passageways connecting the holes to the port” and “spacing the surface of the member apart from the wound surface to define a space between the wound and surface of the member.” As noted above in regards to the arguments set forth in section A of the §102 REJECTIONS, Applicants assert that Gross does not disclose each of these steps.

Specifically, the wound dressing 40 of Gross does not include *both* “holes in the surface” *and* “passageways connecting the holes to the port” *when* the surface of the member is spaced apart from the wound surface “to define a space between the wound and the surface of the member” as is recited in independent claim 38. For example, as noted in section A above, Applicants assert that if the bottom surface of the thin sheet material 42 of Gross is considered to be Applicants’ claimed “surface” which is spaced-apart from the wound, the slits 48 of Gross cannot then be *both* the claimed “holes in the surface” *and* the “passageways connecting the holes to the port.” Further, as shown in FIG. 1, the spaced-areas 46 of Gross do not provide “holes in the surface” which is spaced-apart from the wound.

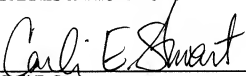
Accordingly, independent claim 38 is not anticipated by Gross because Gross fails to disclose or suggest such required elements of this claim. Further, Estler fails to make up for this deficiency of Gross. As such, the combination of Gross and Estler does not arrive at the invention as set forth in claims 38 and 39. Reconsideration of this rejection as it pertains to claim 38 and claim 39, depending directly from claim 38, is respectfully requested.

## CONCLUSION

In view of the foregoing amendments and remarks, it is submitted that this application is in a condition for allowance. Action to that end is hereby solicited.

It is respectfully requested that this paper be considered as a TWO-MONTH Petition for an Extension of Time sufficient to effect a timely response. As such, the \$450 fee, as well as any other fees, may be charged, or any overpayment in fees be credited, to the Account of Barnes & Thornburg, Deposit Account No. 10-0435 with reference to file 7175-73441.

Respectfully submitted,  
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